

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Avi Springer	Team: Team # 1	CCRB Case #: 200207856	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/13/2002 11:00 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 5/13/2004	EO SOL 5/13/2004	
Date/Time CV Reported Fri, 11/15/2002 12:20 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 11/21/2002 11:50 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			PBBN AC
2. SGT Theodore Lauterborn	01279	897840	PBBN AC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Paul Gillespie	00723	901606	PBBN AC
2. POM David Gross	28971	901639	PBBN AC

Officer(s)	Allegation	Investigator Recommendation
A.SGT Theodore Lauterborn	Abuse: Sergeant Theodore Lauterborn authorized the stops of § 87(2)(b), § 87(2)(b), and § 87(2)(b)	
B.SGT Theodore Lauterborn	Abuse: Sergeant Theodore Lauterborn authorized the frisks of § 87(2)(b), § 87(2)(b), and § 87(2)(b)	
C. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
§ 87(4-b), § 87(2)(g)		

Synopsis

On November 13, 2002, § 87(2)(b) and two friends, § 87(2)(b) and § 87(2)(b) (full name unknown), were standing outside of § 87(2)(b)'s house when they were stopped by three plainclothes officers in an unmarked, burgundy sedan (*Allegation A: stops*). § 87(2)(b) alleges that the officers, who stated that they were responding to a report of shots fired in the area, frisked him and his two friends (*Allegation B: frisks*). § 87(2)(b) further alleges that, when he looked behind him as he was being frisked, one of the officers said, "You move like that again and you're gonna get hurt." (*Allegation C: threat of force*). § 87(2)(b) did not learn the officers' names, but obtained their badge numbers during the incident. The incident was reported to IAB by § 87(2)(b)'s mother, § 87(2)(b) a § 87(2)(b), who did not witness the incident; IAB forwarded the complaint to the CCRB in Log #02-26438 (enc. 4A-D). § 87(2)(b) reported that he had no contact information for § 87(2)(b) who moved to another state following the incident, and that § 87(2)(b) was unwilling to cooperate with the investigation; therefore § 87(2)(b) was the only civilian interviewed for the case.

Based upon the vehicle description and one of the badge numbers provided by § 87(2)(b) the officers present for the incident were identified as Sergeant Theodore Lauterborn, Officer Paul Gillespie, and Officer David Gross, of Patrol Borough Brooklyn North Anti-Crime. However, all three officers claimed to have no recollection of the incident. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-year-old § 87(2)(b), was interviewed at the CCRB on December 9, 2002 (enc. 6A-C). § 87(2)(b) stated that, on the evening of November 13, 2002, he was outside of his house (§ 87(2)(b) in the confines of the 75th precinct) sweeping the sidewalk. At around 10:00 PM, two of § 87(2)(b)'s friends, § 87(2)(b) and a young man known as § 87(2)(b) (full name unknown), stopped by. § 87(2)(b) stopped sweeping and the three young men stood on the sidewalk near the driveway and talked. § 87(2)(b) still had the broom in his hand and there was a garbage bag at his feet.

At approximately 11:00 PM, an unmarked burgundy sedan pulled into § 87(2)(b)'s driveway. There were three plainclothes officers (PO1, PO2, and PO3) inside the car. The driver of the car, PO1, a white male with black hair and a husky build, after asking the young men if they "were getting into any trouble," stated that there had been a complaint that shots had been fired in the area. He then asked § 87(2)(b) who he was. § 87(2)(b) told the officers his name and explained that he resided at the house in front of which he was standing. The officer then asked § 87(2)(b) his age; § 87(2)(b) answered that he is § 87(2)(b).

At this point, the three officers exited their vehicle. When § 87(2)(b) asked the officers "what the problem was," PO1 responded, "there's no problem, we're just trying to keep the community safe." He also asked § 87(2)(b) his age again and then said, "Well, you look like you're thirty." The officers laughed.

Without giving any verbal warning or instructions, the officers began frisking § 87(2)(b) and his friends. PO1 frisked § 87(2)(b) PO2, a white male with a stocky build, brown hair, and a thick goatee frisked § 87(2)(b) and PO3, a light complexioned Hispanic or black male with a skinny build, dark hair, and a light goatee, frisked § 87(2)(b). § 87(2)(b) stated that the frisk consisted of PO3 coming up behind him and running his hands over the outside of his clothing, feeling the contents of his pockets but not reaching inside the pockets. § 87(2)(b) was shocked by the officer's sudden contact with him, so he turned his head to look behind him and asked, "What are you doing?" The officer said, "You move like that again and

you're gonna get hurt." § 87(2)(b) noted that he, § 87(2)(b) and § 87(2)(b) were all compliant with the officers and did not attempt to argue with them.

Once the officers completed the frisks, they got back into their car. § 87(2)(b) asked the three officers for their badge numbers, which they all provided verbally. The officers then drove off without asking § 87(2)(b) or his friends to present identification. Following the incident, § 87(2)(b) went into his house and wrote the officers' badge numbers down. At the time of his interview, he believed that the badge numbers were 7439, 1279, and 9681. These badge numbers were also provided to IAB by § 87(2)(b) when she made the complaint.

On April 25, 2003, § 87(2)(b) was shown three photographic arrays, featuring photos of Sergeant Lauterborn, Officer Gross, or Officer Gross-- the officers identified as having been present at the incident-- and five filler photos. § 87(2)(b) stated that he did not recognize any of the officers depicted in the photos. (enc. 7A-F)

Results of Investigation

Attempts to Contact Additional Victims:

§ 87(2)(b) was unable to provide any contact information for either § 87(2)(b) or § 87(2)(b) at the time of his initial interview; he was asked to obtain that information and call the investigator back with it, but never did. The investigator left a total of eight phone messages for § 87(2)(b) between December 10, 2002 and April 11, 2003, reminding him to obtain contact information for the two additional victims. When § 87(2)(b) called the investigator on April 21, 2003 to schedule a photo-viewing appointment, he stated that § 87(2)(b) was unwilling to cooperate with the investigation and that § 87(2)(b) had moved to another state without giving § 87(2)(b) his contact information. The investigator also attempted to obtain contact information for § 87(2)(b) using the DMV database; no record of § 87(2)(b) was found.

Officer Statements:

Sergeant Theodore Lauterborn, Police Officer David Gross, and Police Officer Paul Gillespie were interviewed on February 12, April 24, and May 15, 2003, respectively (enc. 8A-D, 9A-D, and 10A-D). All three officers were assigned to Patrol Borough Brooklyn North Anti-Crime at the time of the incident. On November 13/14, 2002, they performed anti-crime patrol from 5:30 PM until 2:05 AM; they were all in plainclothes and were assigned to RMP § 87(2)(b), an unmarked, dark red Chevrolet Caprice. It should be noted here that, according to the interim order which established Borough Anti-Crime Units on April 15, 2002, the function of these units is to "stress the enforcement and prevention of violent crime against citizens of the City of New York, with particular emphasis on the apprehension and arrest of those who illegally use and/or possess guns within the City." (enc. 1)

None of the officers had any memo book entries regarding the incident, nor did they have any entries from around the time of the incident. In addition to recording his start of tour and end of tour, Sergeant Lauterborn's memo book indicates that he was present at the 68th precinct annex from 6:30 PM until 7:30 PM; his next entry is at 2:00 AM when he went 62A (out of service for administrative duty) until 2:20 AM. Officer Gross and Officer Gillespie's only memo book entries for the date of the incident were their start of tour and end of tour. None of the officers made any arrests during this tour.

Sergeant Lauterborn, Officer Gross, and Officer Gillespie all stated that they did not recall responding to § 87(2)(b) or interacting with § 87(2)(b) and his two friends on the date of the incident. The officers were all provided with a brief description of the incident, as recounted by § 87(2)(b). They maintained that they did not recall stopping or frisking anyone in the vicinity of § 87(2)(b) on the date of the incident.

All three officers acknowledged that there was a possibility that they had interacted with the three victims on the date of the incident. They stated that the 75th precinct is within the geographical area (Brooklyn North) which they normally patrol and that, as anti-crime officers, they often deal with firearms offenses.

Officers Gross and Gillespie also noted that calls of shots fired are common in the 75th precinct, so it is possible that they could have responded to such a call on the date of the incident and not remembered it. Sergeant Lauterborn stated that, had he frisked or supervised the frisks of the victims in this complaint, he would have completed stop and frisk reports for them; he stated that he had not completed any such paperwork.

Police Department Documents:

A search of BADS confirmed that none of the subject officers made any arrests during the tour when the incident occurred. Officer Gross made one arrest-- of § 87(2)(b) on Georgia Avenue in the 75th precinct-- on November 13, 2002; however this arrest occurred at 1:00 AM on the night before the incident. Neither Sergeant Lauterborn nor Officer Gillespie made any arrests on November 13 or 14, 2002. (enc. 16Z-E')

The Patrol Borough Brooklyn North Anti-Crime roll call (enc. 11A-B) indicates that, on the date of the incident, Sergeant Lauterborn, Officer Gillespie, and Officer Gross were on duty during the third tour and were all assigned to RMP § 87(2)(b).

The investigator attempted to obtain stop and frisk reports for the incident from both Patrol Borough Brooklyn North Anti-Crime and the 75th precinct. No reports were on file for any of the three victims at either command. The stop and frisk logs from both commands (enc. 12A-B and 13A-B) indicate that Officer Gross completed one stop and frisk report on the date of the incident, for § 87(2)(b), who was stopped at Georgia Avenue and Livonia Avenue. (This report appears to have been completed concurrent with § 87(2)(b)'s arrest the night before the incident.) No reports were completed by either Sergeant Lauterborn or Officer Gross and no reports were completed for stops at § 87(2)(b)'s address.

The index of communication records from the 75th precinct around the time of the incident (enc. 14A-C) show no jobs for the address § 87(2)(b). The index also shows no calls of shots fired in the area.

The investigator requested copies of all UF61 complaint reports from the date of the incident relating to firearms offenses in the 75th precinct; no such reports were located (enc. 16U).

Basis of Officer Identification:

§ 87(2)(b) provided the shield numbers 7439, 1279, and 9681 for the subject officers. A search of the NYPD database (enc. 16F-H) showed that the shield number 1279 is shared by three officers: Sergeant Theodore Lauterborn of Patrol Borough Brooklyn North Anti-Crime, Detective Jeremiah Breen of Narcotics Division Central Harlem Initiative, and Police Officer Frank Wolf of the 67th precinct. Shield number 9681 belongs to Police Officer Felix Spigner of the Manhattan Court Section and shield number 7439 is shared by Detective Rosita Bellington of Queens South Narcotics and Police Officer Hector Joseph of the 77th precinct. Since § 87(2)(b)'s residence is located in the 75th precinct (Brooklyn North) it was determined that Sergeant Lauterborn is the only one of these officers who is likely to have been present for the incident.

The Patrol Borough Brooklyn North Anti-Crime roll call (enc. 11A-B) confirmed that Sergeant Lauterborn was working at the time of the incident as the supervisor for Police Officer Paul Gillespie and Police Officer David Gross, and that all three officers were assigned to RMP § 87(2)(b). The officers indicated during their interviews that RMP § 87(2)(b) is an unmarked, dark red sedan. Since Sergeant Lauterborn's shield number, the vehicle he was assigned to, and the number of officers he was working with all matched the details provided in § 87(2)(b)'s statement, he, Officer Gross and Officer Gillespie were identified as the officers on the scene during the incident.

It should be noted that Officer Gillespie and Officer Gross' shield numbers, 723 and 28971, respectively, did not match the remaining two numbers provided by § 87(2)(b) 7439 and 9681. However, according to § 87(2)(b)'s statement, the officers provided their shield numbers verbally and he only wrote them down

once he entered his home after they left the scene. § 87(2)(b), § 87(2)(g)

While § 87(2)(b) failed to identify any of the officers from photo arrays, the photo viewing appointment took place on April 25, 2004, over five months after the incident (enc. 7A-F). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

However, a search of the Fleet Services database (enc. 16N-T) showed no unmarked red or burgundy sedans in service in the 75th precinct at the time of the incident. This confirmed the investigator's identification of Sergeant Lauterborn, Officer Gross, and Officer Gillespie as the officers present for the incident.

Complainant's History of Arrests and Convictions:

A search of the BADS database showed no arrests of § 87(2)(b) or § 87(2)(b) in the past year.

Officer History:

Sergeant Theodore Lauterborn has been a member of the New York City Police Department since October 15, 1990. He has one prior case on his CCRB history and no substantiated allegations. (enc 3)

Conclusions and Recommendations

§ 87(2)(b), § 87(2)(g)

The complaint was filed by his mother, a § 87(2)(b) who felt that her son's rights were violated when he was frisked while talking with two friends in front of his home. § 87(2)(g)

The officers present during the incident were identified as Sergeant Lauterborn, Officer Gillespie, and Officer Gross of Patrol Borough Brooklyn North Anti-Crime based upon a number of factors. First of all, of the officers whose shield numbers matched those § 87(2)(b) provided in his statement, Sergeant

Lauterborn was the only one assigned to a command which covers the 75th precinct. Secondly, Sergeant Lauterborn, Officer Gross, and Officer Gillespie were all assigned to a dark red, unmarked sedan; no other vehicle matching § 87(2)(b)'s description, let alone one with three plainclothes officers assigned to it, is known to have been in service in the 75th precinct at the time of the incident. Finally, § 87(2)(b) stated that the officers who stopped him informed him that he and his friends were suspected of a firearms offense; as the interim order establishing the Patrol Borough Anti-Crime units indicates, Sergeant Lauterborn, Officer Gross, and Officer Gillespie were specifically charged with the duty of apprehending “those who illegally use and/or possess guns within the City.” (enc. 1)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation A is that Sergeant Lauterborn authorized the stops of § 87(2)(b), § 87(2)(b), and an individual known to § 87(2)(b) as “§ 87(2)(b) § 87(2)(g)

Allegation B is that Sergeant Lauterborn authorized the frisks of § 87(2)(b), § 87(2)(b), “§ 87(2)(b) § 87(2)(b), § 87(2)(g)

Allegation C is that an officer threatened § 87(2)(b) with force when he suddenly turned around while being frisked. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: